

# CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; Room 5111  
Sacramento, CA 95814



## TITLE 5. EDUCATION

### CALIFORNIA STATE BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING

#### **State Board Review of Multi-site Charters of Statewide Interest**

[Notice published September 17, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

The State Board will hold a public hearing beginning at **1:30 p.m. on Tuesday, November 2, 2004**, at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on November 2, 2004**. The State Board will consider only written comments received by the Regulations Coordinator or at the State Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, California 95814  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0860  
FAX: (916) 319-0155

#### **AUTHORITY AND REFERENCE**

Authority: Sections 33031, 47602, 47605 and 47605.8, Education Code.

References: Sections 47602, 47605, 47605.6, 47605.8, 47612.5, 47632, 47634.2 and 47651, Education Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This regulations packet includes six sections; three sections are amended and three new sections are added. These regulations are necessary to implement AB 1994 (Chapter 1058, Statutes of 2002) which amended and added to the Charter School Act of 1992.

The first section amends 5 CCR 11967 to conform to an amendment of Education Code Section 47605(j), which was amended to require a denied charter to appeal to the county board of education prior to appealing to the State Board of Education (SBE). Previously, a charter that was denied by a school district could appeal to either the county board or the SBE. The amendments to this section are largely technical and conforming to reflect the change in the sequence of a charter appeals.

The second section adds 5 CCR 11967.6, which is necessary pursuant to Education Code Section 47605.8(a). Education Code Section 47605.8 creates new responsibilities for the State Board to review and approve charter schools of statewide benefit that propose to operate on multiple sites. The law requires the SBE to adopt regulations to implement Section 47605.8.

Education Code Section 47605.8 states:

“(a) A petition for the operation of a state charter school may be submitted directly to the State Board of Education, and the board shall have the authority to approve a charter for the operation of a state charter school that may operate at multiple sites throughout the state. The State Board of Education shall adopt regulations, pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) for the implementation of this section. Any regulations adopted pursuant to this section shall ensure that a charter school approved pursuant to this section meets all requirements otherwise imposed on charter schools pursuant to this part, except that a charter school approved pursuant to this section shall not be subject to the geographic and site limitations otherwise imposed on charter schools.

(b) The State Board of Education may not approve a petition for the operation of a state charter school under this section unless the State Board of Education finds that the proposed state charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county. The finding of the board in this regard shall be made part of the public record of the board's proceedings and shall precede the approval of the charter.

(c) The State Board of Education may, as a condition of charter petition approval, enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report on, the operations of the charter school. The State Board of Education may prescribe the aspects of the charter school's operations to be monitored by the third party and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the charter school to the State Board of Education.

(d) The State Board of Education shall not be required to approve a petition for the operation of a statewide charter school, and may deny approval based on any of the reasons set forth in subdivision (b) of Section 47605.6.”

The SBE previously adopted regulations describing the criteria and process for SBE review and approval of charters that have been denied by local entities. They are included in 5 CCR 11967 through 11967.5.1. These existing regulations are used as a reference and basis in implementing regulation for Education Code Section 47605.8. However, Education Code Section 47605.8 creates a new type of State Board-approved charter school that requires additional considerations that are not addressed in existing regulations.

The third section adds 5 CCR 11967.7 to provide technical clarity regarding the timelines for submission of documentation on the adequacy of facilities proposed to be used for statewide charter schools and for California Department of Education to review the adequacy and appropriateness of such facilities.

The fourth section adds 5 CCR 11967.8 to provide technical clarity regarding the funding calculation and process for providing operational funding to statewide charter schools and to specify that for purposes of local tax transfers, a statewide charter does not have a “sponsoring local education agency”.

The fifth section amends 5 CCR 11968 related to the number of charter schools authorized to operate in the state. These amendments are necessary to align the charter numbering process more closely with the language in Education Code Section 47602 as amended by AB 1994, and the amendments to Section 11969 that are proposed to 5 CCR 11969 below.

The last section amends 5 CCR 11969 regarding the numbering of charter petitions by the SBE. This amendment is necessary to implement an amendment to Education Code Section 47602, which was also enacted through AB 1994. This section now requires the SBE, in its charter-numbering process, to consider providing separate charter numbers to each site of a multi-site charter that offers differing educational programs. This amendment also clarifies that the California Department of Education is to establish and administer the charter numbering system on behalf of the SBE.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None.

Other non-discretionary cost or savings imposed on local educational agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Effect on small businesses: The proposed amendments to the regulations do not have an effect on small businesses because the regulations only relate to local school districts.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Deborah Connelly, Education Program Consultant  
California Department of Education  
Charter Schools Division  
1430 N Street, Room 5401  
Sacramento, CA 95814  
Telephone: (916) 323-2694  
E-mail: [dconnelly@cde.ca.gov](mailto:dconnelly@cde.ca.gov)

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified

text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/rr/>.

### **REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Deborah Connelly, Charter Schools Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 323-2694; fax, (916) 322-1465. It is recommended that assistance be requested at least two weeks prior to the hearing.